IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ICONTROL NETWORKS, INC., a Delaware corporation, **Plaintiff,** **v.** **ZONOFF INC., a Delaware corporation,** **Defendant.**	**CIVIL ACTION** **NO. 1:14-CV-1199-GMS**

ZONOFF'S REPLY TO iCONTROL'S RESPONSE TO ZONOFF'S MOTION TO DISMISS AND FOR A MORE DEFINITE STATEMENT

Pending before the Court is the motion of defendant Zonoff Inc. ("Zonoff") made pursuant to Fed. R. Civ. P. 12(b)(6) and 12(e) to dismiss and for a more definite statement of plaintiff's original Complaint (D.I. 11). Since the filing of Zonoff's motion, plaintiff has filed a First Amended Complaint as of right pursuant to Fed. R. Civ. P. 15(a)(1)(B). (D.I. 15). Plaintiff thereafter filed a response to Zonoff's motion to dismiss and for a more definite statement of the original Complaint, contending that the First Amended Complaint "addresses the deficiencies identified by Zonoff" and that "Zonoff's Motion is moot." (D.I. 16). Zonoff respectfully submits this brief reply.

Even though the First Amended Complaint does not address at all, or inadequately addresses, many of the deficiencies identified in Zonoff's pending motion,[1] the filing of the First

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[1] The First Amended Complaint still fails to provide sufficient facts to support the claims of indirect infringement; it fails to correct the deficiencies with respect to the alleged infringement of method claims; it fails to address the deficiencies that doom the claim for damages; and it fails to identify which of the 221 claims of the six patents-in-suit are alleged to be indirectly infringed.

Amended Complaint supersedes the original Complaint and renders it a nullity. *See, e.g., Klyce v. Ramirez*, No. 87-5176, 1988 WL 74155, at *3 (6th Cir. 1988); *Barnes v. Birds Eye Foods LLC*, No. 1-10-cv-541, 2010 U.S. Dist. LEXIS 69579, *2-3 (W.D. Mich. July 12, 2010). As a necessary consequence, Zonoff's motion to dismiss and for a more definite statement of the now superseded original Complaint is indeed moot. *See Barnes*, 2010 U.S. Dist. LEXIS 69579 at *3 ("An amended complaint filed after a motion to dismiss has been filed renders the motion to dismiss moot."). The deficiencies in the First Amended Complaint therefore will have to be addressed in new motion papers being filed this date.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of December, 2014, a copy of the foregoing Zonoff's Reply To iControl's Response To Zonoff's Motion To Dismiss And For A More Definite Statement is being served via Hand Delivery to:

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